BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

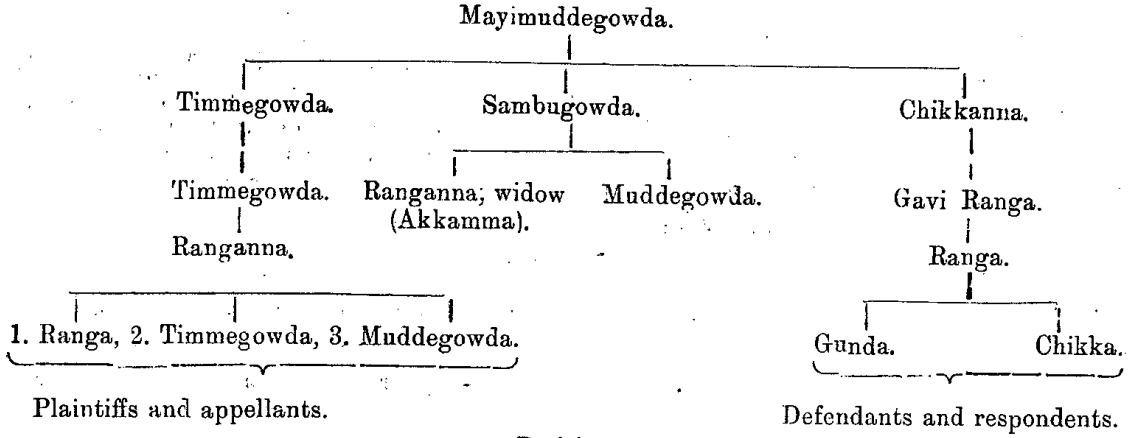
Appeal No. 73 *of* 1905-06.

Appellants and plaintiffs	*Versus*	Respondents and defendants
1. Ranga, 2. Timmegowda 3. Muddegowda, minor, by 1st appellant	Sons of Ranganna.	1. Gunda, 2. Chikka, sons of Ranga.

Subject.

Appeal against the judgment and decree of the Deputy Commissioner of the Tumkur District, adjudging the pateli office of the Hettanahalli village in the Tumkur Taluk, in favor of the respondents in preference to the appellants.

The facts of the case appear sufficiently from the decision of Government No. 3727-34—Pet. 530, dated the 22nd October 1897, passed in Appeal No. 104 of 1896-97, and from the following decision. The parties are related to each other as below :—



Decision.

Both the parties claim descent from a common ancestor named Mayimuddegowda, the plaintiffs being the great grandsons of his eldest son Timmegowda, and the defendants the great grandsons of his youngest son Chikkanna. In the face of the decision passed by Government in Appeal No. 104 of 1896-97, it is not now open to the plaintiffs to repudiate the relationship of the defendant's father Ranga to the said Mayimuddegowda. Nor has such repudiation been satisfactorily established. The relationship above referred to may therefore be accepted as an unquestionable fact.

2. The dispute relates to a hereditary pateli office. The last male holder of the office by right of succession to Mayimuddegowda was his second son Sambugowda's son Muddegowda, on whose death it devolved upon his brother Ranganna's widow Akkamma. The suit of 1895-96, which terminated in the appeal above adverted to, was between the present plaintiffs represented by their mother and guardian, and the aforesaid Akkamma and the present defendant's father Ranga. It was held that Akkamma's title was unassailable, that the registry should remain in her name during her lifetime and that the defendant's father Ranga (then 2nd defendant) should be declared heir after her death as against the plaintiffs. The reason why the then 2nd defendant was declared entitled to priority over the plaintiffs was that he was one degree more nearly related to the common ancestor than the plaintiffs. That individual subsequently predeceased Akkamma. The declaration in his favor did not consequently take effect; in other words, the contingency contemplated by the Government decision dated the 22nd October 1897, has not as a matter of fact happened. There is thus no question of resjudicata. Irrespective, then, of the previous litigation, the point now for determination, is which of the parties to the present suit is entitled to succeed Akkamma, who died in January 1903. The Assistant Commissioner decreed in favor of the plaintiffs and the Deputy Commissioner in that of the defendants.

3. Both plaintiffs and defendants are, as shown above, Mayimuddegowda's descendents in the fourth degree. As such they stand on a par with each other. The only difference is that the plaintiffs are the progeny of the elder branch, while the defendants belong to the younger branch. As a set-off against this there is the fact that the defendant's father was in office for several years as Akkamma's gumasta and that but for his premature demise before Akkamma, he would in pursuance of the order of 1897-98, have succeeded her in preference to the plaintiffs and thus acquired a right transmissible to his sons, the defendants. In view of past Proceedings, Government are of opinion that the case is an exceptional one in which the ends of

justice could only be met by recognizing the title of both the parties and giving them an opportunity of enjoying the office by rotation.

4. In modification, therefore, of the Deputy Commissioner's decision Government direct that both the 1st plaintiff and the 1st defendant be appointed and registered as patels and that the office be held by them in turns of five years each.

No. R. 12273—*R. M.* 234-05-4, *dated Bangalore, 23rd March* 1906.

Copy of the above is forwarded to the Deputy Commissioner of the Tumkur District, together with the records received with his docket No. 546, dated the 7th December 1905.

Appeal No. 104 *of* 1902-03.

Appellants.	*Versus*	Respondent
Basve Gowda and others of Jodi Danaikenhalli village in the Belur Taluk.	——	Kondi Naranachar and other vrittidars of the said Jodi village.

Subject.

Claim of the appellants to exemption from the payment of full assessment on the Gowda Umbli lands in their possession in the Jodi Danaikenhalli village in the Belur Taluk.

The facts of the case appear sufficiently from the following:—

Decision.

The appellants claim exemption from the payment of full assessment on the Gowda Umbli lands in their enjoyment.

2. On the 11th October 1905 Government remitted the case to the Survey and Settlement Commissioner with the following observations:—

"It is admitted that the lands in question are Gowda Umbli lands, that they are entered as such in the Inam Register, that the holders thereof were only paying a jodi both before and after the Inam Settlement that the village was surveyed and settled and taken under Government management in 1884, that full assessment was being levied during the period of such management, and that since the restoration of the village to the Inamdars there has been a dispute as to whether what they are entitled to levy is jodi or full assessment. It is also conceded that one of the appellants continues to do the duties of 'Grama Patel.' The Inamdars (respondents) offer to pay the appellants (or rather the one that does the Grama Pateli duties) a Potgi allowance in the same way as in Government villages. There seem to be more than one kind of Patel in this village as in other malnad tracts. The Gowda Umbli lands were not noticed at the time of the Inam Settlement. (*Vide* Inam Superintendent's docket No. 64, dated the 28th February 1903.) The mere fact that for some time Government had the management of the village and enforced from the Gowdas payment of full assessment, does not seem to prejudicially affect the rights (if any) of the Gowdas as against the Inamdars." "The Survey and Settlement Commissioner and the Inam Superintendent will be requested to favor Government with his opinion as to whether having regard to all the circumstances of the case the appellants (Gowdas) can be compelled to forego their Umbli Hak and to pay full Survey assessment, the Grama Patel alone in return receiving a Potgi allowance from the Inamdars as in Sirkar maidan villages."

3. That officer has now given his opinion in favor of the appellants, as will be seen from the following extract from his report:—

"The village of Danaikenhalli had the Survey Settlement introduced long ago, at the instance of the Inam Superintendent, Colonel Cole. Docket No. 530, dated 17th March 1879."

"The Survey Settlement was introduced by an Assistant Commissioner but no settlement of the particular case under reference was made although in the Pahanisud and in the Putpahani specific mention is made of the Gowda Umbli lands concerned. The remaining settlement papers contain no mention of these lands but the settlement was carelessly carried out, even the Phaisal Patrik not having been prepared."

"So far as can be ascertained by comparing the Pahanisud with the Inam Register, which latter gives the Gowda Umbli (Jodi) as Rs. 33-5-2, the survey assessment of the land comes to very little more than the old jodi."

"The Potgi settlement has also been effected but no land emoluments appear to Patel (sic) and I am not aware whether the Potgi amount has been regularly paid to the officiator or not."